DOCUMENT RESUME

ED 149 813 JC 780 092

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TITLE The Dr. Jekyll and Mr. Hyde of Federal Aid.
PUB DATE Nov 77
NOTE 5p.

EDRS PRICE MF-$0.83 HC-$1.67 Plus Postage.
DESCRIPTORS Academic Freedom; College Role; Community Colleges; Educational Policy; *Federal Legislation; *Federal Regulation; Government Role; *Higher Education; *Institutional Autonomy; Junior Colleges

ABSTRACT

In recent years the academic community has become keenly aware and seriously concerned by substantial increases in government legislation and regulations that infringe on the independent operation of institutions of higher education. Examples of government influence include civil rights legislation and compliance, which require collection of data on all employees and a management system for hiring members of minority groups and women; the Rehabilitation Act of 1973, which results in significant costs to higher education; the "Buckley Amendment" to the Family Rights and Privacy Act of 1974; the Occupational Safety and Health Act of 1970; regulations of the Immigration and Naturalization Service, which require the College to report students who, after entering the country, register, carry less than a full-time course load, or terminate; and statutory and regulatory changes within the Veterans Administration, which have resulted in a transfer of responsibility. One must recognize that an institution that lacks freedom from government intervention in the management of its educational functions cannot protect its faculty from government intervention. The importance of the protection of academic freedom is too vital to democracy to be bargained away bit by bit to Uncle Sam. (Author/LH)

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Stuart E. Marsee
President El Camino College

November 1977

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By signing the land-grant college legislation in 1862, Lincoln set America on its course of higher education, not only for the few, but for the many, welding agriculture, industry, the sciences and other segments of a developing society into a new kind of higher education. And so it is recognized worldwide that one of American's great strengths is its development of higher education. However, I should like to identify one great threat today to this great educational system of ours--and it is--increasing intrusion by the federal government!

No one loves the rich uncle! Especially when he dictates his life style at the price of riches and by the threat of disinheritance. He is the first one they go to when times are tough and help is needed. The grantee gladly accepts the handout, but he is the first to vilify the grantor. This is very much the way the relationship is between American institutions of higher education and the federal government.

Institutions need federal support and the good that has come from this support would include federal legislation which led to our system of land-grant colleges, the G. I. Bill, medical and technical research, and accomplishments in sciences and arts unmatched elsewhere in the world.

On the other side of the coin is the realization that he who pays the fiddler calls the tune. One must recognize that an institution that lacks freedom from governmental intervention in the management of its educational functions cannot protect its faculty from government intervention. The importance of the protection of academic freedom is too vital to democracy to be bargained away bit by bit to Uncle Sam.

In recent years the academic community has become keenly aware and seriously concerned by substantial increases in government legislation and regulations that infringe on the independent operation of institutions of higher education. Examples of government influence are as follows:

> Civil rights legislation and compliance, best exemplified by Executive Order Numbers 11246 and 11375, which require collection of data on all employees and a management system for hiring members of minority groups and women. Substantial work has been done in implementing other federal laws respecting education, such as the regulation concerning Title IX of the Education Amendments of 1972, which deals with equal opportunity of women, and Title VI of the Civil Rights Act of 1964 as amended, which deals with equal opportunity of minorities. The cost in new staff and the amount of time designated by the College to implement federal laws and regulations in advertising and recruiting to fill staff vacancies with qualified women and minority members alone is burdensome. Gathering data required by the federal government has become an irksome way of life. One questions the use that can be, and is, made of the data required by the investigators. Without question, the laws and

regulations provided an impetus and provided continuing external reinforcement for wise personnel and educational policies. Attention to objectional "over kill" by "feds" will be discussed later in this paper.

The Rehabilitation Act of 1973, particularly Sections 503 and 504, has resulted in significant costs to higher education. The modification of costs to provide access for the handicapped has imposed thousands of dollars in costs to El Camino College. No one questions the social merits of the legislation. A legitimate question is, should not the government pay for the modifications needed to comply?

The difficulties of implementing the "Buckley Amendment" to the Family Rights and Privacy Act of 1974 have not been overwhelming. The major outcomes resulting from the Buckley Amendment are twofold: (A) the files of students are no longer necessarily confidential, (B) no individual in his right mind would write a candid recommendation for any student containing negative observations. One wonders about the value of a written recommendation and certainly the student loses greatly by such student rights legislation.

The Occupational Safety and Health Act (OSHA) of 1970 is a prime example of legislation and compliance in non-civil rights matters. In many cases OSHA standards are duplications of existing local and state building codes or fire regulations. OSHA has been severely criticized by the folly of many of its employees who have lacked good judgment in implementing its charge.

The Immigration and Naturalization Service (INS) requires the College to report students who, after entering the country to study at El Camino College, register, carry less than a full-time course of study, or terminate. Verification of requests from international students regarding student status is time consuming.

Institutions of higher education have worked cooperatively for many years with the office of the Veterans Administration. Over the years, statutory and regulatory changes have been made that have had the net effect of transferring responsibilities that rightly should rest with the government, to the institution.

To add insult to injury, most of us have suffered the utter frustration of trying to accommodate not only the confusing, competing and conflicting personnel policies of the federal departments of Labor and of Health, Education and Welfare but, also, to endure double and multiple jeopardy, echoed by one or more state departments, such as California's Fair Employment Practice Commission.

We have suffered the little surprises of receiving the standardized form of notice that we have been filed against for alleged discriminatory practices. It is not uncommon to receive such notice long after the case has been tried by the disgruntled employee in the local or student newspaper.

You may rest assured that filing of charges with both state and federal agencies at least doubles the efforts of the institution and undoubtedly does the same to the taxpayer's cost.

Regulation by society exists to define and enforce some minimum standards of behavior, presumably for the benefit of society. One of the guiding principles of our democracy has been to guarantee equality of opportunity. As we observe the increased harassment by federal and state governments and suffer the increase of internal control of our academic operations, the thought occurs that at least a part of our society seems hell-bent on guaranteeing equality of reward from "cradle to the grave," regardless of effort or ability.

Legislative bodies are increasingly indulging in the passage of generalized statements of law with little or no consideration of their impact on the group being regulated. Such laws should be vetoed. Too often they aren't. As a result, the Executive Department attempts to give meaning to the general intent of the Legislature and, in effect, usurps the function of the Legislature. At this point the only recourse is legal action in the courts. What a rotten route to right the original wrong of the incompetent or irresponsible legislator.

The time has come for the public to demand legislators to stop playing games and to be accountable for integrity and responsibility. If those elected to make laws continue to do "shoddy work" leaving to the Executive Department, with its bureaucrats, the responsibility of giving meaning to the general intent of legislators by issuing regulations to inform the regulated what the law requires of them, the Legislature becomes ineffective. Regulations written by the Department of Health, Education and Welfare alone over the past 25 years fill 6,000 pages in 13 volumes of the Code of Federal Regulations. Many of these regulations have never been codified.

As a result of poor law without clear intent or legislative history, we end up with the real law-making power being exercised by individuals not responsible to the electorate. We, in fact, are moving in the direction where we are being governed by degree rather than by representative democracy. This trend must stop if we are to enjoy the existence of a free people, and if we are going to protect the educational system of America from becoming federalized.

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